



DRAFT Record of Decision Tule River Reservation Protection Project U.S. Forest Service

Western Divide Ranger District Giant Sequoia National Monument Sequoia National Forest

Tulare County, California

Decision

Based on my review of the Tule River Reservation Protection (TRRP) Project Environmental Impact Statement (EIS), I have decided to implement Alternative 3, which was developed to address the issues of high snag density, high woody debris concentrations along Forest Roads 21S94 and 21S12, and the risk of fire spreading from Camp Nelson, Rogers Camp, Simmons Post Camp, Mountain Aire, and Bateman Ridge private lands, especially in the upper end of Wilson Creek. This alternative proposes to reduce surface and ladder fuels on approximately 2,830 acres in the project area.

Alternative 3 proposes four treatment areas to reduce fuels:

- Planted Stands
- Shaded Fuel Breaks
- Understory Burning
- Other Fuel Treatments

Planted Stands

The TRRP project area contains approximately 400 acres of planted stands, ranging in age from 30 to 50 years. Alternative 3 proposes to reduce fuels as well as create more heterogeneity and resiliency in these planted stands, by using hand treatments to vary tree spacing in multiple directions (upslope, downslope, side slope, etc.). Treatments include:

- Varying spacing to favor retention of the largest trees, according to the following species priority:
 - 1. All trees greater than 12 inches dbh
 - 2. Giant sequoia
 - 3. Black oak
 - 4. Pine
 - 5. An average of five hardwoods per acre.
- Felling trees up to 12 inches dbh following the priority list.
- Where the largest trees are smaller than eight inches in diameter, thinning to 100 trees per acre (average tree spacing of 20 feet).
- Where the largest trees are eight inches in diameter and larger, thinning trees to 70 trees per acre (average tree spacing of 25 feet).





- Removing a sufficient amount of surface fuels to produce an average flame length of four feet or less, by piling and burning existing down woody material between one and eight inches in diameter.
- Limbing leave trees where necessary to reduce fire risk.
- After previous treatments, jackpot burning and pile burning to reduce fuel loading.
- Retaining snags larger than 15 inches dbh unless they pose an imminent safety threat to personnel.

Shaded Fuel Breaks

Alternative 3 would use hand treatments to establish several fuelbreaks on approximately 690 acres of the project area. Based on terrain and vegetation features, these fuelbreaks would vary from 150 to 300-feet in width:

- 1) Construct a 150-foot-wide shaded fuel break along the northern boundary of the Reservation and extending from approximately to the east of Black Mountain to the east past Solo Peak in and ending in section 15 at the eastern edge of the Reservation.
- Construct a 200-foot-wide shaded fuel break (100 feet on both sides of the road) along Forest Roads (FR) 21S94, 21S12 (from 21S94 to 21S25), 21S12B, 21S25A, 21S25B, 21S25C, 21S25D, and 21S58.
- 3) Construct a 200-foot-wide shaded fuel break on National Forest System (NFS) land adjacent to private property.
- 4) Construct a 300-foot-wide shaded fuel break along the eastern and northwestern boundaries of the project area.

Construction of the shaded fuel breaks would include one or more of the following treatments:

- Fell shade-tolerant tree species (incense-cedar, white fir, and red fir) and retain giant sequoias, oaks, and pine trees.
- Remove sufficient surface fuels to produce an average flame length of four feet or less after project completion, by piling existing down woody material between one and eight inches in diameter.
- Remove sufficient ladder fuels to meet an average canopy base height of 20 feet, by:
 - Cutting and piling brush.
 - Felling and piling trees up to 12 inches dbh to achieve an average of no more than 70 trees per acre (average tree spacing of 25 feet).
- Where shaded fuel breaks and spotted owl protected activity centers overlap (approximately 130 acres), cut and pile brush and trees less than six inches dbh.
- Retain snags greater than 15 inches dbh unless they pose an imminent threat to personnel.
- After the treatments above, use jackpot burning and pile burning to reduce fuel loading.

Understory Burn

Understory burning is proposed on approximately 240 acres between the planted stands and some of the shaded fuel breaks. This prescribed burning would reduce surface fuels to retain an average of 15 tons per acre. In the burn area, hand crews would construct fire lines, and prune or fell incidental small trees, generally less than six inches dbh, prior to burning. Snags greater than 15 inches dbh would be retained, unless they pose an imminent threat to personnel during project implementation.





Other Fuel Treatments

In addition to the 240 acres of underburning between planted stands and the shaded fuelbreaks, Alternative 3 proposes approximately 1,500 more acres of fuels reduction treatments. These treatments would focus on reducing surface and ladder fuels in more of the areas between the planted stands and the shaded fuelbreaks, and in the eastern portion of the project area using the following criteria:

- Remove sufficient surface fuels to produce an average flame length of less than six feet after project completion, by hand piling existing down woody material up to 8 inches in diameter.
- Remove sufficient ladder fuels, to meet an average canopy base height of 20 feet, by:
 - Cutting and piling brush.
 - Felling and piling trees up to 12 inches dbh to achieve an average of no more than 70 trees per acre (average tree spacing of 25 feet).
- Retain snags greater than 15 inches dbh unless they pose an imminent threat to personnel.
- Where these fuel treatments and spotted owl protected activity centers overlap (305 acres), cut and pile brush and small trees (less than six inches dbh).
- After the felling and piling, use jackpot burning and pile burning to reduce fuel loading.
- Where these fuel treatments and fisher den site buffers overlap (approximately 45 acres), use only pile and burn methods.

Background

The Western Divide Ranger District of the Sequoia National Forest proposes to reduce surface and ladder fuels on approximately 2,830 acres of the Giant Sequoia National Monument. This action is needed because of the high and continuous accumulation of woody fuels adjacent to the Tule River Indian Reservation (Reservation) that could result in a stand-replacing event crossing between the Giant Sequoia National Monument and the Reservation, or other adjacent private lands. This project is of particular importance for reducing the threat of a stand-replacing fire in the headwaters of the watershed that supplies the Reservation with their drinking water.

The purpose of the TRRP Project is to respond to the Tule River Tribal Council's request for action under the 2004 Tribal Forest Protection Act, and to protect, restore, and maintain the Black Mountain Giant Sequoia Grove, the surrounding forest, and the other objects of interest in the project area, by conducting fuels management activities in the Tribal Fuels Emphasis Treatment Area (TFETA) defined in the Giant Sequoia National Monument Management Plan (Monument Plan). The TFETA was designed along the boundary with the Tule River Indian Reservation to not only protect the reservation and its watersheds, but also the objects of interest and watersheds in the Monument, from fires spreading from one to the other.

The need is to reduce the accumulation of woody fuels adjacent to the reservation in order to:

- Prevent unwanted wildland fire from spreading into the Tule River Indian Reservation from the project area, and protect the watershed which provides the Tribe's drinking water from a stand-replacing event.
- Move the project area toward the desired conditions in the Monument Plan for Fire and Fuels in the TFETA.





On July 22, 2004, Congress passed the Tribal Forest Protection Act (Public Law 108-278) in response to devastating wildfires that started on Federal lands and crossed onto adjacent Tribal lands. The Tribal Forest Protection Act (TFPA) provides a tool for tribes to propose work on adjacent federal lands that would reduce the threat of fires starting on those lands from spreading onto trust lands for Indian tribes.

On November 1, 2005, the Tule River Tribal Council of the Tule River Indian Tribe (Tribe), a federally recognized tribe, formally submitted a project request under the authority of the Tribal Forest Protection Act of 2004 to the Forest Supervisor of the Sequoia National Forest. The proposal identified an area for treatment along the northern boundary of the Reservation to address threats to tribal lands. That same month, the Sequoia National Forest Supervisor requested the authority to proceed from the Pacific Southwest Regional Forester, who agreed that the proposal met the criteria set forth by the TFPA and Forest Service Handbook (FSH) 2409.19, Chapter 60 (USDA 2008a).

Decision Rationale

The TRRP Project EIS documents the accumulation of trees less than 12 inches that are dominating much of the giant sequoia grove, and due to being suppressed and dying, make up the ladder fuels that lower the canopy base height in wildfire situations. Trees up to 12 inches diameter at breast height (dbh) will be thinned to reduce ladder fuels, but still retain a mix of this size class spaced throughout the understory. Focus will be placed on retaining young giant sequoia, pine and black oak when present over incense cedar and white fir. These guidelines in conjunction with proposed burning techniques will allow for the retention of both low ground cover and more hardened physical structures such as large down logs, and maintenance of elements most at risk, and difficult to replace, such as large live trees, snags, and down woody debris. The thinning and fuels reduction operations target the removal of only small trees (12 inches dbh or less), brush, and existing surface fuels.

Implementation of Alternative 3 is not expected to result in substantial shifts in habitat quality or quantity from what currently exist throughout the TRRP project area, and would maintain suitable habitat elements necessary for wildlife over the landscape. Risk of uncharacteristically severe fire disturbances which would negatively impact wildlife would be reduced.

Alternative 3 best meets the purpose and need for the TRRP Project, because by treating fuels on all the project acres, I expect to reduce the risk of fire spreading from NFS lands into the Reservation; and protect, restore, and maintain the Black Mountain Giant Sequoia Grove, the surrounding forest, and the other objects of interest in the project area. Alternative 3 also addresses the issues of high snag density; high woody debris concentrations.

- The data on fire behavior and treatment show that Alternative 3 will best meet the purpose and need in reducing the potential for active crown fire, and reducing surface and ladder fuels by treating a total of 2,380 acres, an additional 1,500 acres of fuels treatments on NFS lands along the boundary with the Reservation that Alternative 2 did not propose to treat.
- Alternative 3 has the greatest potential of the three alternatives to break up fuel concentrations, reduce woody debris, and protect the private lands within or close to the project area, by reducing fuels in the wildland urban intermix (WUI) surrounding these tracts of private land, especially in the Wilson Creek area. Alternative 2 would reduce the accumulated woody debris to a lesser degree.





- In response to the issue regarding snags both as wildlife habitat and a safety hazard, each alternative is likely to retain more snags per acre than required for wildlife habitat by the Monument Plan. However, Alternative 3 includes the stipulation that snags or live trees that pose a safety hazard may be felled when clearly needed for firefighter or public safety.
- Canopy cover in the more mature and dense forest habitat types would be retained best in
 Alternative 3. In terms of wildlife habitat, though Alternative 3 proposes treatments in close
 proximity to known nesting and denning areas, the overall changes in CWHR habitat scores would
 be minimal in the event of a wildfire occurring after project implementation. Thinning small trees,
 while leaving large-and moderate-sized trees in the overstory, would lead to improved stand health,
 and a diversity of canopy layers.
- Alternative 3 complies with the intent of the Tribal Forest Protection Act by complementing the
 fuels reduction work that the Tule River Tribe has done on their side of the boundary with NFS lands.
 This project also implements key features of the Monument Plan, particularly the Tribal Fuels
 Emphasis Protection Treatment Area.

Mitigation measures were developed following current management direction from the Monument Plan and applicable laws, regulations, and policies. Mitigation measures were also developed to address issues raised during scoping, specifically to protect large sequoias from fire, and retaining large snags and down woody debris for wildlife habitat.

The TRRP EIS documents the analysis and conclusions upon which this decision is based.

Public Involvement

The Forest Service issued a news release describing the preliminary TRRP Project on February 28, 2006. A letter soliciting input about the proposal was sent to 37 interested individuals on March 2, 2006. Two responses were received.

The TRRP Project was added to the Sequoia National Forest's Schedule of Proposed Actions (SOPA) in June 2006. A field trip to the project area, scheduled for September 2, 2006, was announced in a news release on August 21, 2006, and in a letter sent to the pre-scoping list of interested individuals. The field trip was attended by 27 individuals. Suggestions regarding the project were incorporated into the proposal. Another field trip to the project area was held on October 26, 2007, with 15 people attending.

A notice of intent to prepare an EIS was published in the Federal Register on August 28, 2008 (73 FR 50301), initiating a 30-day scoping period for the TRRP Project. In addition, the proposed action was listed in the Sequoia National Forest Schedule of Proposed Actions and updated periodically during the environmental analysis. The scoping letter was mailed on August 26, 2008 as well. There were 10 responses to scoping containing several concerns and suggestions regarding the proposed action. The following issues were identified from scoping comments and were used to determine the scope of the analysis. The issues raised include the abundance of snags (too many for safety, and not enough for wildlife); the proposed action did not treat enough of the large accumulations of woody debris along Forest Roads 21S94 and 21S12 to provide an effective barrier, or stop fire from coming onto the forest from the private properties; and mastication can inhibit the natural germination of plants, which would interfere with the restoration of plantations. A full description of issues significant to the proposed





action appears in the FEIS on pages 11 to 12. The scoping comments from the public are also in the project record on file at the Western Divide Ranger District Office in Springville, California.

Another field trip was conducted on August 9, 2013. The field trip was attended by Tribal representatives, local property owners within the project area, and other interested parties. No new issues were raised during that field trip.

A draft environmental impact statement (DEIS) was published for review and comment on April 25, 2014 in the Federal Register. There were 18 respondents, of which the majority supported selection of Alternative 3. However, comments from the public included a number of recommendations for and against the 12-inch dbh upper diameter limit; requests for a sale of some type of forest product (no forest or wood product sales are proposed as part of the TRRP Project); views about the effectiveness of fuelbreaks and their locations along several existing roads in the project area; opinions for and against road decommissioning, and statements for and against snag retention. Three respondents commented on the need to protect the watershed from a stand-replacing fire since it is the main drinking water source for the Tule River Indian Reservation.

Several commenters wanted confirmation or clarification that the project will proceed in compliance with NEPA, other applicable regulation or policy, and current management direction, including but not limited to the Air Quality General Conformity requirements, Freedom of Information Act, Tribal consultation requirements, the Monument Plan, and consideration of new science. There were comments that the TFETA is arbitrarily large, that there is no requirement to fence cattle out, that the project is not consistent with the 1990 Sequoia National Forest Mediated Settlement Agreement, and that the cumulative effects analysis was not adequate.

Other Alternatives Considered

In addition to the selected alternative, I considered 2 other alternatives, which are discussed below. Alternative 3 is the environmentally preferred alternative. A more detailed comparison of these alternatives can be found in the EIS on pages 24 through 26.

Alternative 1

Under Alternative 1, current management plans would continue to guide management of the project area. No fuel reduction activities would be implemented to treat surface and ladder fuels and reduce the risk of wildland fire spreading from NFS lands onto the Tule River Indian Reservation. The purpose and need for the TRRP Project would not be achieved: the Tule River Tribal Council's request for action under the 2004 Tribal Forest Protection Act would not be implemented, and no fuel treatments would be conducted to protect, restore, and maintain the Black Mountain Giant Sequoia Grove, the surrounding forest, and the other objects of interest in the project area.

Alternative 2 (Proposed Action)

The proposed action is to reduce surface and ladder fuels on approximately 1,410 acres using a combination of activities. Treatments include hand constructing shaded fuel breaks along ridgelines, private land boundaries, and road edges; hand treatments to vary spacing and reduce fuels in planted stands; and prescribed burning in these areas and other areas using jackpot burning, pile burning, and understory burning techniques.





Findings Required by Other Laws and Regulations

This decision is consistent with the Giant Sequoia National Monument Management Plan. The project was designed in conformance with the Sequoia National Forest Land and Resource Management Plan, as amended.

Short-term Uses and Long-term Productivity

The consideration of "the relationship between short-term uses of man's environment and the maintenance and enhancement of long-term productivity" (40 CFR 1502.16) is required by NEPA. This includes using all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans (NEPA, Section 101). Discussion related to short-term uses and long-term productivity can be found in detail in the effects analysis discussions for the individual resources in the FEIS.

Alternative3 would implement fuel reduction activities that could produce the greatest amount of short-term effects to soil and water quality, while providing the greatest long-term benefits in terms of prevention of and protection from wildfire. In contrast, in the event of a wildfire under extreme weather conditions, Alternative 1 could produce a great amount of short-term effects to soil and water quality, while providing limited long-term benefits in terms of prevention of and protection from wildfire.

Unavoidable Adverse Effects

There are no known unavoidable adverse effects from implementing Alternative 3.

Irreversible and Irretrievable Commitments of Resources

There are no known irreversible or irretrievable commitments of resources from implementing Alternative 3.

Other Required Disclosures

The National Environmental Policy Act directs that "to the fullest extent possible, agencies shall prepare draft EIS's concurrently with and integrated with...other environmental review laws and executive orders" (40 CFR 1502.25(a)).

In accordance with the Endangered Species Act, the TRRP planning team would consult as necessary with the U.S. Fish and Wildlife Service throughout the development of the draft and final EIS regarding the California condor and any other species that become known in the project area. Should satellite data suggest presence of condors on the Forest that would result in occupation of the TRRP vicinity, a limited operating period would be implemented in consultation with the Condor Recovery Team. The draft EIS was sent to officials of the U.S. Fish and Wildlife Service for their review and comments, and they had none.

Consultation with the National Marine Fisheries Service is not required due to the absence of anadromous fish and their habitat.

Title 17 of the California Code of Regulation – Subchapter 2, Smoke Management Guidelines for Agriculture and Prescribed Burning and Public Resource Code 4291 – for Hazard Reduction





Burning in the foothill and mountain areas of the San Joaquin Valley Air Pollution Control District (SJVAPCD) will be followed. Implementation of prescribed burning will only occur after approval from SJVAPCD. The conformity rule states "that the prescribed burns conducted in accordance with a smoke management program (SMP) which meets the requirements of EPA's Interim Air Quality Policy on Wildland and Prescribed Fires or an equivalent replacement EPA policy" are considered as "presumed to conform." The EPA has approved California's revised Title 17 regulations as an equivalent of a SMP. Therefore, the project will fall under "presumed to conform" for implementing prescribed burning.

In accordance with Pacific Southwest Regional guidance (letter dated November 6, 2013) and the agreement with the State of California, though this project includes activities in the Black Mountain Inventoried Roadless Area (IRA), it does not warrant Regional Office review. Specifically, fuel reduction treatments in the Black Mountain IRA include hand piling, jackpot and pile burning in the planted stands, and along the fuelbreaks, and underburning. None of these activities would change the characteristics for which the Black Mountain IRA was identified. There is no timber sale or road construction component in the TRRP Project.

Management of the resources within TRRP Project in terms of cooperation with Native American and Tribal interests is governed by the laws and executive orders applicable to cultural resources, specifically the Archaeological Resources Protection Act of 1979, Native American Graves Protection and Repatriation Act of 1990, Indian Sacred Sites Executive Order (EO) 13007, and Consultation and Coordination with Indian Tribal Governments EO 13175.

The Tribal Forest Protection Act (TFPA) (Public Law 108-278) provides a tool for tribes to propose work on adjacent federal lands that would reduce the threat of fires starting on those lands from spreading onto trust lands for Indian tribes. The TRRP Project was proposed based on a request from the Tule River Indian Tribe under the Tribal Forest Protection Act. Tribal consultation has been on-going and includes several presentations to the Tule River Tribal Council, and a field trip on July 30, 2012 to review the proposal. No new issues were raised during this trip, or from the presentations to the Tribal Council.

In addition to the Tribal Forest Protection Act of 2004, other laws potentially applicable to the TRRP Project include the National Indian Forest Resources Management Act (NIFRMA) (Public Law 101-630, November 28, 1990), American Indian Religious Freedom Act (AIRFA) (Public Law 103-344, October 6, 1994), Healthy Forest Restoration Act (HFRA) (Section 303 of Public Law 108-148, December 3, 2003), and the Farm Bill: Food, Conservation, and Energy Act of 2008 (Public Law 110-234). There are no known or anticipated conflicts between federal, regional, state, local, or Indian reservation land use plans, policies, and controls for the TRRP project area at this time (40 CFR 1502.16(c)).

Objection Opportunities

This proposed decision is subject to objection pursuant to 36 CFR 218, Subparts A and B.

Objections will only be accepted from those who submitted project-specific written comments during scoping or other designated comment period. Issues raised in objections must be based on previously submitted comments unless based on new information arising after designated comment periods.





Objections must be submitted within 45 days following the publication of this legal notice in the *Porterville Recorder.* The date of this legal notice is the exclusive means for calculating the time to file an objection. Those wishing to object should not rely upon dates or timeframes provided by any other source. It is the objector's responsibility to ensure evidence of timely receipt (36 CFR 218.9).

Written objections must be submitted to the reviewing officer: Kevin Elliott, Forest Supervisor, Sequoia National Forest; 1839 South Newcomb Street, Porterville, CA 93257. Objections may be submitted via email, mail, FAX (559-781-4744), or delivered during business hours (Monday through Friday, 8:00am to 4:30pm). Electronic objections, in a common electronic format (.doc, .pdf, .rtf, .txt), should be submitted to: objections-pacificsouthwest-sequoia@fs.fed.us with Subject: TRRP Project.

Objections must include (36 CFR 218.8(d)): 1) name, address, and telephone number; 2) signature or other verification of authorship; 3) identification of a single lead objector when applicable; 4) project name, Responsible Official name and title, and name of affected National Forest(s) and/or Ranger District(s); 5) reasons for, and suggested remedies to resolve, your objections; and 6) a description of the connection between your objections and your prior comments. You may incorporate documents by reference only as provided for at 36 CFR 218.8(b).

Implementation Date

The expected date of implementation is in spring of 2015.

Contact

For additional information concerning this decision, contact: Marianne Emmendorfer, District Planner, 559-338-2251 extension 313; c/o: Western Divide Ranger District, 32588 Highway 190, Springville, California 93265.

RICHARD I STEVENS Date

District Ranger

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